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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/653,408	08/31/2000	Jean-Charles Mercier	Q60439	5345
7590 10/10/2003 Sughrue Mion Zinn MacPeak & Seas PLLC 2100 Pennsylvania Avenue NW Washington, DC 20037-3213			EXAMINER GONZALEZ, JULIO C	
			ART UNIT	PAPER NUMBER
			2834	

DATE MAILED: 10/10/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/653,408

Applicant(s)

MERCIER ET AL.

Examiner

Julio C. Gonzalez

Art Unit

2834

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 June 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other:

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 4 and 7 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

Claim 4 discloses that the stator has lateral openings. It is not clear how the stator would function having openings through out its body. Are the openings through out the windings? The Armature? From the drawings it is not clear how the openings are incorporated to the stator itself.

Claim 7 discloses that the device swivels at the end of a mast. From the disclosure, it would seem as if the whole device would swivel without any control. How the free rotation of the swivel of the pod would assist to the rotation of the blades?

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1-7 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1, what is the difference between the pod and the fairing? They seem to be the same component.

With respect to claim 4, from the disclosure and the drawings, it would seem as if the openings extend through the pod and not the stator. If the stator is inside the pod then how air would go through the stator? Does the pod also has lateral openings? Or is the pod the one with the lateral openings?

In order to advance prosecution in the merits, the Prior Art will be applied as best understood by the examiner.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Sperry.

Sperry discloses a wind power generator pod having a rigid fairing 1 in which generators 4 and 5 are disposed, a wind propeller 9 and the stator of the generators 4 and 5 contact the fairing 1 (see figure 1).

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 5 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sperry in view of Carter, Jr. et al.

Sperry discloses a wind power generator pod having a rigid fairing 1 in which generators 4 and 5 are disposed, a wind propeller 9 and the stator of the generators 4 and 5 contact the fairing 1 (see figure 1).

However, Sperry does not disclose having a gearbox.

On the other hand, Carter, Jr. et al discloses for the purpose of providing an efficient wind generator with automatic overspeed control, a wind-power generator (see figures 1 and 2) in which a generator 34 is inside a pod and coupled to a propeller 14 and the generator 34 is coupled to a gearbox 36 inside the pod.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to design a wind power generator as disclosed by Sperry and to modify the invention by attaching a gear to the generator for the purpose of providing an efficient wind generator with automatic overspeed control as disclosed by Carter, Jr. et al.

9. Claims 4 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sperry in view of Calley.

Sperry discloses a wind power generator pod having a rigid fairing 1 in which generators 4 and 5 are disposed, a wind propeller 9 and the stator of the generators 4 and 5 contact the fairing 1 (see figure 1).

However, Sperry does not disclose having a pod/stator with lateral openings.

On the other hand, Calley discloses for the purpose of providing a wind generator that is simple in structure, durable and low in operating costs, a generator 15 with windings 36, a pod 41 and the pod has openings 55 (see figures 1, 4).

Moreover, it is disclosed that the pod swivels (see abstract).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to design a wind power generator as disclosed by Sperry and to modify the invention by having opening in the pod for the purpose of

providing a wind generator that is simple in structure, durable and low in operating costs for the purpose of providing a wind generator that is simple in structure, durable and low in operating costs as disclosed by Calley.

10. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sperry in view of Benoit.

Sperry discloses a wind power generator pod having a rigid fairing 1 in which generators 4 and 5 are disposed, a wind propeller 9 and the stator of the generators 4 and 5 contact the fairing 1 (see figure 1).

However, Sperry does not disclose a tubular sleeve around the pod.

On the other hand Benoit discloses for the purpose of taking advantage of high wind speeds thus improving efficiency of the wind power generator that the pod 58 is surrounded by a tubular sleeve forming an annular air passage along the pod (see figures 2 and 3).

It would have been obvious to one having ordinary skill in the art to design a wind generator as disclosed by Sperry and to make a tubular sleeve surrounding the pod for the purpose of taking advantage of high wind speeds thus improving efficiency of the wind power generator as disclosed by Benoit.

11. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sperry in view of Rao.

Sperry discloses a wind power generator pod having a rigid fairing 1 in which generators 4 and 5 are disposed, a wind propeller 9 and the stator of the generators 4 and 5 contact the fairing 1 (see figure 1).

However, Sperry does not disclose that a stator may be attached to a fairing by interference fit.

On the other hand, Rao discloses for the purpose of increasing the efficiency of the generator assembly and keeping the generator laminations firmly in place during generation operation, a stator 15, which is assembled into the housing 13 with an interference fit (column 4, lines 30-31 & see figure 2).

It would have been obvious to one having ordinary skill in the art to design a wind generator as disclosed by Sperry and to have an interference fit between the stator and housing for the purpose of increasing the efficiency of the generator assembly and keeping the generator laminations firmly in place during generation operation as disclosed by Rao.

Response to Arguments

12. Applicant's arguments with respect to claims 1-7 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Julio C. Gonzalez whose telephone number is (703) 305-1563. The examiner can normally be reached on M-F (8AM-5PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nestor Ramirez can be reached on (703) 308-1371. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.

Jcg

Thomas M. Dougherty